

BUNCOMBE COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURE MANUAL

Chapter 3 Operations & Enforcement	Subject Evidence Collection & Property Control	Policy # 3.09	Number of Pages 12
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General Statement

The purpose of this Policy is to establish procedures to be used for the handling of evidence, confiscated property, and found property, and to define the duties and responsibilities of all personnel involved in the collection and preservation process.

Definitions

Evidence: Any item of property seized or obtained by an officer that is directly related to a case under investigation; the seizure of which is intended for used in the identification of suspects and/or in court presentation in that case.

Recovered/Found Property: Any item of non-contraband property seized or obtained by an officer for the purpose of returning the property to its rightful owner, whether the owner is known or unknown.

Confiscated Property: An item of property seized or obtained by an officer that does not meet the criteria above for evidence or found property.
Example: Contraband or property seized for forfeiture to the government.

Abandoned/Surrendered Property: Any item of property which has been voluntarily surrendered by the rightful owner. Abandoned property shall be disposed of in accordance with departmental policies and North Carolina General Statutes.

Procedure

I. Introduction

- A. The proper collection, preservation and handling of physical evidence is becoming increasingly important. The courts, carefully scrutinize the “chain of evidence,” from recovery to the time of court presentation. The proper handling of physical evidence may be a determining factor in the successful prosecution of criminal cases.
- B. To insure that the physical evidence collected by the Buncombe County Sheriff’s Department personnel will meet the requirements of the courts, it is necessary to establish standard procedures, which will permit the proper collection and preservation of evidence.
- C. Found property and confiscated property, while not as critical from an evidence standpoint, must be handled with equal diligence to insure its proper disposition.

II. Evidence Handling Procedures

- A. Officers and employees involved in the evidence collection process should use discretion in collecting evidence items. Evidence storage space is critical; therefore, only items of sound evidential value should be collected.
 - 1. Seizure of items or evidence will be consistent with state law.
 - 2. In compliance with N.C.G.S. §15-11.1, seized property will be safely kept in storage to assure that it will be produced at trial.
- B. In cases where physical collection is deemed appropriate, the officer or employee recovering the evidence will mark and package the evidence according to the rules of evidence and correct evidence handling techniques.
 - 1. Items required to be placed in **SEALED CLEAR** packaging are as follows: cocaine, felonious amounts of marijuana, prescription drugs, any drug to be sent for lab analysis, and cash.
 - 2. All evidence suitable for placement in a container or package should be placed in a container or package, and the package marked for identification.
 - 3. Damp/wet items should be placed in paper bags after drying

4. Items for hair and fiber analysis should be packaged in paper containers or wrappers.
5. Items too large for envelopes or bags should have a tag affixed or evidence label attached.
6. Items should be placed in separate packages when the possibility of contamination exists. Items of same nature found in different locations must be packaged separately.
7. Items requiring lab analysis or processing must be placed in separate packages and sealed. This is the only method that will allow further handling of these items.
8. All cash from a suspect seized as evidence, fruits, or instrumentalities of a crime must be logged in on the Evidence and Property Report. The judge, the NC Department of Revenue, or the IRS will decide the disposition of the money. Monies should be placed in a separate envelope, sealed, and marked for identification.
9. Weapons turned in as found property will not be etched, but will be tagged with the appropriate identifying information.
10. Items collected should be turned in as soon as possible, and no later than the end of the investigating officer's tour of duty.
11. The evidence report must be completed and placed with the evidence or evidence container. As a safety measure, the envelopes containing firearms will not be sealed, but will be secured by the envelope clasp only.
12. Copies of all DCI and NCIC printouts should be attached to the Evidence and Property Report if related to the evidence or stolen property.
13. The evidence room is open from 8:30am until 5:00pm, Monday through Friday. All evidence or property collected during these hours should be turned in directly to the evidence room.
14. Crime Scene analysts may store items in a processing area or take such items to the 12th floor of the courthouse.
15. Do not place raw drugs, drug pipes, paraphernalia, etc. in

the lockers without first placing them in an envelope. Please do not staple or tape evidence to the Evidence and Property Report.

16. Take all Evidence to District court for trial. In District Court, it is the charging officer's responsibility to get the evidence disposition, not the District Attorney's or property control's responsibility. In Superior Court, it is the officer's responsibility to give the District Attorney either a copy of the Evidence Report, or a list of all items of evidence. After the trial, a Court Order signed by the Judge will dispose of these items.
17. Officers will not keep evidence past their daily tour of duty without approval by the Sheriff or his designee.

C. Photographs

1. Take photographs of the scene from a variety of angles.
2. The designated photographer will maintain a record of each photo taken. Record the following information:
 - (a) Case number;
 - (b) Date, time, and location;
 - (c) Type of camera and film used;
 - (d) Lighting;
 - (e) Photographers name; and
 - (f) Description of photograph.
3. Take a close-up photograph of evidence. Whenever possible, photos will show the evidence in the condition it was initially discovered.

D. Sketches - Make sketches for major crimes. Sketches will include the following:

1. Case number;
2. Exact address, apartment number, name(s) and location of

the victim(s) as discovered at the scene;

3. Dimensions of the room or building;
4. Locations of seized evidence;
5. Location of the crime scene in relation to other rooms, building, roads, etc;
6. Name of person who prepared the sketch;
7. Time and date of sketch;
8. The direction of north on the sketch; and
9. An indication of the scale of the drawing as it relates to the actual scene.

III. Confiscated Property Handling

A. Confiscated property items will be handled with the same care as evidence.

B. In general, collection, packaging, preservation, and storage of confiscated property will follow the same procedures as enumerated in this policy for evidence, with the following **EXCEPTIONS:**

1. The case report will be routed to the appropriate Department.
2. The assigned deputy will insure that a follow-up investigation is conducted and that proper disposition of the confiscated property items is made. Within a six month period from the seizure, the property will be
 - (a) changed to evidence under an active case number, **OR**
 - (b) returned to its rightful owner, **OR**
 - (c) retained for further follow-up upon the authorization of the Sheriff or his designee.

IV. Recovered/Found Property Handling

A. Recovered/Found property items will be handled and labeled with

the same care as evidence.

- B. In general, collection, packaging, preservation, and storage of recovered/found property will follow the same procedure as enumerated in this order for evidence, with the following

EXCEPTIONS:

1. The officer who takes possession of recovered/found property is responsible for completing the Evidence and Property Report.
2. The officer who turns property in is responsible for seeing that a proper follow-up investigation is conducted and that proper disposition of found property items is made.
 - (a) The officer must also attempt to locate the owner of the property and either return it to him or her and advise him or her how the property can be picked up. This information should be documented and turned over to Property Control.
3. If an item cannot be returned to its rightful owner, it will be disposed of at the direction of the EVIDENCE CUSTODIAN consistent with State law.

V. Abandoned/Surrendered Property Handling

- A. Abandoned/Surrendered property items will be handled and labeled with the same care as evidence.

B. In general, collection, packaging, preservation, and storage of abandoned/surrendered property will follow the same procedure as enumerated in this order for evidence, with the following

EXCEPTIONS:

1. The officer who takes possession of abandoned/surrendered property is responsible for completing the Evidence and Property Report.
2. Items removed from the medication/pill drop box shall be packaged in bulk and weighed pending destruction.

VI. Laboratory Analysis and Processing of Evidence Items

- A. Evidence requiring laboratory analysis for processing should be placed in separate packages and sealed to avoid contamination of evidence.
- B. Evidence requiring laboratory processing may be submitted directly by the officer or the crime scene analyst for packaging and mailing.
- C. The Evidence Custodian personnel receiving the evidence and a signed copy forwarded to the submitting officer will sign the Evidence and Property form.

VII. Removing Evidence from Storage

- A. Officers or employees may remove evidence from storage for court purposes and/or investigation purposes.
 - 1. Officers or employees removing evidence for any purpose will sign for the evidence on the evidence control form and indicate the purpose for the removal.
 - 2. The officer will return evidence not retained by the court to the Evidence Custodian personnel with disposition of the court proceeding attached.
 - 3. In the event it is necessary to leave the evidence with the court, the officer who checked out the evidence will get a receipt from an official of the court and return it to the Evidence Custodian the same day.
 - 4. Packages of evidence returned from laboratory facilities outside the department (SBI, FBI, etc.) are sealed and should not be opened by anyone unless and until directed by the court or the District Attorney's office.
 - 5. According to N.C.G.S. § 90-95 (g), the laboratory report of drug analysis by the SBI is admissible in the District Court and it is not necessary to open the evidence.
 - 6. **The evidence will not be opened unless specifically directed by the Court or the District Attorney's office.**
 - 7. The chemist or lab technician performing the analysis will be available for court testimony and will open the evidence

in court.

8. On those occasions when an officer attempts to return evidence that has previously been checked out for court or other permissible purposes and the evidence room is closed, the officer will place the evidence in the evidence lockers temporarily.
- B. Any employee releasing a firearm from the BCSD's custody shall obtain a completed application from the claimant. Firearms seized from convicted felons are contraband under Federal Law and State Law and will not be returned to any such person.
- C. Any employee releasing a firearm shall obtain a local and DCI records check on the claimant.

VIII. Responsibilities

- A. Support Commander: The Support Commander is responsible for the supervision of the evidence custodian.

Evidence Custodian: The Evidence Custodian is accountable for all property acquired by the Department and stored in the evidence room or its related areas. The Evidence Custodian is responsible for these duties:

1. Maintaining accurate records of all property submitted to the evidence room.
2. Securely storing all property submitted to the evidence room.
3. Having evidentiary property processed within the chain of custody requirements.
4. Disposing of property in accordance with legal standards which include:
 - (a) Destruction
 - (b) Return to rightful owners
 - (c) Public Auctions
 - (d) Retained by the Department

Submitting Officer: The officer who turns in the property decides whether the property should be in the Sheriff's custody; decides the correct classification of the property; correctly completes all the required paperwork; and assists in the disposition of the property by helping to find the rightful owner, obtaining a release from the court, or by approving disposition under his own authority.

1. The submitting officer is responsible for authorizing disposition of property placed in the evidence room.
2. At the request of the Evidence Custodian, any officer shall review stored evidence for which he(she) is responsible.
3. If the property has no evidentiary value, the officer shall make arrangements for its proper disposition.
4. The officer must summarize the reason for destruction or release.
5. If the property does have evidentiary value, the Evidence Custodian shall retain it in storage.

IX. Disposal of Items in Storage

- A. An officer has the ultimate responsibility of authorizing disposal of the evidence items collected by him or her. In arrest cases, officers are responsible for requesting court dispositions of evidence items that are involved in their cases. In cases, which do not reach judicial authority, the officer may authorize disposition with the approval of the Evidence Custodian.
- B. Disposition of evidence items is mandated by statute, specific court orders or departmental policy. Items of no value and contraband will be destroyed. Items of value will be returned to the rightful owner if the determination of ownership can be established. Items of value which rightful ownership can not be established, will be sold at public auction or disposed of in compliance with state law.
 1. All destruction will be performed by the Evidence Custodian or other property control personnel as directed and witnessed by at least an officer ranked Sergeant or higher. Records attesting to the destruction will be signed by all parties involved in the destruction.

- C. Evidence items will be disposed of at periodic intervals depending upon the type of cases as directed by the Evidence Custodian.
1. In misdemeanor cases where no arrest has been made, evidence items will be disposed of after 180 days with approval of the Evidence Custodian.
 2. In felony cases where no arrest had been made, evidence items will be disposed of after one (1) year on approval of the Evidence Control Officer and the investigating officer.
 3. Alcohol evidence collected in cases of arrest for illegal consumption or similar simple alcohol offenses will be disposed of 90 days after its collection without notifying the officer.
 4. License tags no longer needed as evidence collected in arrests for improper registration and/or other minor traffic offenses will be turned over to the Department of Motor Vehicles without notification of the officer.
 5. Found items such as alcoholic beverages and controlled substances turned in as found property will be disposed of after 10 days without notifying the officer.
 6. All remaining evidence cases will be reviewed after a one (1) year period, and the submitting officer must justify continued retention.
 7. Evidence items may be disposed of prior to the deadline above if authorization is given from the Evidence Control Custodian.
 8. Officers must keep their evidence file up to date, this is their responsibility. Officers will be required to routinely go through this file and dispose of items that have no further value and check the statute of evidence where the disposition is unknown.

X. Special Circumstances

- A. Storage of property for other law enforcement agencies in the county.

1. The Sheriff, or his designee, may permit other Law

Enforcement Agencies to enter evidence and found/recovered property into the Property Management Unit.

2. The admitting officer will enter the necessary information on appropriate Recovered/Found Property Report (DCI IR 205) Form.
 3. The Evidence Custodian, Duty Officer, or his designee, shall obtain a County Complaint Number (OCA) from the Communications Center. Enter this number on all Property and Evidence Inventory Forms.
- B. Narcotics and Dangerous Drugs: both quality and quantity regulate the acceptance and release of narcotic and dangerous drugs from the evidence room control systems. The confiscating officer will count, weigh, and seal Narcotics/Dangerous Drugs in tamper proof containers prior to submitting to the Evidence Custodian. Inspect these containers during unannounced inspections and annual inventory as a safeguard against tampering or substitution.
- C. Perishable Items: Make secure refrigerated storage available in the evidence room for perishable items such as blood samples, urine specimens, etc.
1. Seal all evidence requiring refrigeration in an evidence envelope or bag and place and secure in the Property Control refrigerator. Keep the refrigerator key in a safe.

NOTE: the physician seals Rape kits at the hospital and it is not necessary to place the kit in an evidence envelope.
 2. Secure property that requires refrigeration and is not involved in a criminal case in a manner that will preserve the property.
 3. The Evidence Custodian will check the condition of refrigerated property and evidence daily.
- D. Dangerous substances:
1. In instances when the evidentiary property is very bulky, dangerous to store, prone to easy deterioration, needs special preservatives, or is of essential use to the owner (if the owner is not the arrestee), contact the District

Attorney's Office for advice and guidance.

2. If returned to the owner or destroyed, take photographs of the property and record that fact on the Property/Evidence Report Form (DCI IR 205).
- E. Property/evidence too large for the locker that needs storage during off-duty hours. If the property needs to be indoors, the on duty detective will arrange for storing the property. If the property does not require storage inside, place it at the discretion of the Staff Duty Officer.
- F. Flammable, explosive, or other volatile materials. Place them in the fenced area of the parking lot. Property Management will store those materials properly. At the direction of the staff duty officer, remove flammable fuels from equipment by appropriate methods before storing.
- G. Needles, Place all recovered/confiscated hypodermic syringes in a vial supplied for that purpose. Insert the syringe into the vial needle point down and secure the vial opening with tape. Exercise CAUTION to prevent injury from the needle or contact with syringe contents. Then place the vial in a sealed envelope, which clearly notes the contents.
- H. Biohazard, Process any property containing blood or other biohazard in accordance with the Department Policy and OSHA guidelines.
- I. Firearms
1. Firearms impounded as "found property" are usually not examined by the Crime Laboratory. If a firearm stored as "found property" in a DWI or other arrest incident may be released to the owner, the arresting officer shall check the appropriate block on the Recovered/Found Property (DCI IR 205) Form.
 2. Sheriff's personnel shall check NCIC using the serial number, on all firearms logged into Property Management.
 3. The investigating officer will ensure that the firearm should be taken into Sheriff's custody; determine the correct classification; see to its proper disposition; and assure that. All weapons are in a safe condition without compromising their evidentiary value. The Crime Scene Analyst or

Ordinance Officer must inspect any weapon that the officer believes is loaded or should remain loaded.

4. Mark all weapons stored in a LOADED condition as LOADED. Whenever possible, semi-automatic weapons should be placed in a "locked open" or "opened chamber" condition, with all magazines removed. Use extreme caution when handling firearms and other hazardous items.

Comment: Gender Reference in Buncombe County Sheriff's Office 'Policy Manual', such as "he," "his," "she," "hers" etc., may refer equally to either the male or female gender.

This policy and procedure is for internal use only, and does not enlarge a deputy's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims.

Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

Building	Room	Bin	Item No.	Records	Actual	Difference	Accuracy	Corrected	Corrected	Loc Audited	Date
Total for 8/29/12				32	32	0	100.00%	0	100.00%	7	8/29/2012
Total for 9/6/12				20	19	1	95.00%	1	100.00%	17	9/6/2012
Total for 9/13/12				25	25	0	100.00%	0	100.00%	23	9/13/2012
Total for 9/19/12				15	14	1	93.33%	1	100.00%	15	9/19/2012
Totals for 9/23/12				21	21	0	100.00%	0	100.00%	23	9/23/2012

S2A1 SVLT S001 ALL 33 33 0 100.00% 0 100.00% 1 10/11/2012

S1MA SMAA S035 ALL 22 22 0 100.00% 0 100.00% 1 10/11/2012

**Two locations were choosen and all items in that location were located. All records were accurate.

S2A1	SVLT	S013	ALL	31	41	10	75.61%	10	100.00%	1	11/5/2012
S1MA	SMAA	S043	ALL	4	4	0	100.00%	0	100.00%	1	11/15/2012
Totals for 11/15/12				25	25	0	100.00%	0	100.00%	25	11/15/2012
Totals for 1/17/2013				19	19	0	100.00%	0	100.00%	1	1/17/2013
S2A1	SVLT	S011	ALL	66	58	8	87.88%	8	100.00%	1	2/14/2013
Totals for 2/28/13				105	105	0	100.00%	0	100.00%	35	2/28/2013